IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CRIMINAL APPLICATION No 1069 of 1989

For Approval and Signature:

Hon'ble MR.JUSTICE R.P.DHOLAKIA

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

STATE OF GUJARAT

Versus

SHANKERLAL PREMJIBHAI THAKKAR

Appearance:

MR KP RAVAL, APP for Petitioners

MR RN SHAH for Respondent No. 1, 2

CORAM : MR.JUSTICE R.P.DHOLAKIA

Date of decision: 11/02/2000

ORAL JUDGEMENT

Present petitioner has filed the present Special Criminal Application challenging the order of the learned Sessions Judge, Surat wherein the learned Judge had set aside the order dated 27-1-1989 passed by the Deputy Conservator of Forest, Vyara confiscating the truck No.GRN 4580 along with 49 articles of forest produce

holding that said truck was being used for transporting forest material.

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#. Short facts of the case are that on 4-4-1988, the Range Forest Officer with his staff while on patrolling duty saw a truck bearing No.GRN 4580 running on suspicion. They caught the truck after chasing it but the driver of the truck was able to ran away. Therefore, after following necessary procedure, necessary panchnama was prepared of the truck and the goods lying in the truck by the Forest Department authorities. Thereafter, enquiry was conducted by Deputy Conservator of Forest, who, after giving sufficient opportunity to the respondents, passed an order under Sec.61-A(1) of the Indian Forest Act for confiscating the truck and the forest material. Said order was challenged before the learned Sessions Judge, Surat being Criminal Appeal No.3 of 1989. After hearing the respective parties, learned Sessions Judge vide order dated 30-6-1989 allowed the appeal and set aside the order passed by the Deputy Conservator of Forest. Learned Sessions Judge further ordered that the Forest authority to hand over the truck to opponents therein if the appellants therein pay an amount of Rs.60,000/-. Against said order, present Special Criminal Application is preferred by the State.

#. I have heard Mr.K.P.Raval, learned Addl. Public Prosecutor for the petitioners and Mr.M.R.Shah, learned counsel for the respondents.

#. Mr.Raval has mainly argued that this Court has jurisdiction to interfere with the order passed by the court below under Article 227 of the Constitution of India for which even learned counsel for the respondents has also no objection. Mr.Raval has further argued that when the vehicle in question is being used by the respondents, amount by way of penalty is required to be increased and order passed by the court below is required to be quashed and set aside. Mr.Shah, however, has argued that looking to the make and the condition of the truck in question, penalty which has been imposed by the learned Sessions Judge, Surat vide order dated 30-6-1989 is fair and just.

#. I have gone through the reasoned order passed by the court below and for the reasons recorded by him in the judgment, he reached to the conclusion that looking to the facts and circumstances of the case, confiscating the vehicle was too harsh a penalty and, therefore, he set aside the order and in turn passed an order that the

respondents shall pay a penalty of Rs.60,000/-. In my opinion, looking to the panchnama regarding the make and condition of the truck in question and price of the truck prevailing at the relevant time, order passed by the court below to pay Rs.60,000/- by the respondents is just and proper and not required to be interfered with in this Special Criminal Application. In view of the above, this petition is required to be rejected.

#. These Special Criminal Applications are hereby rejected. Rule discharged. Interim relief granted earlier stands vacated.

(R.P.DHOLAKIA,J.)
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